

Religious Liberty in Transitional Societies

The Politics of Religion

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1 Introduction

In the summer of 1997 the State Duma of the Russian Federation adopted a law 'on freedom of conscience and religious organisation' that, after a brief delay, was signed into law by Boris Yeltsin on 26 September. Whereas the law on religion approved in 1991 had effectively created a religious free market in Russia, the new law differentiated amongst religious communities with regard to both their symbolic status and legal rights.

As the Russian text was awaiting the final presidential signature, the author of these lines was in Kyrgyzstan researching the growth of civil society in this newly independent Central Asian republic. Following an interview with the state commissioner for religious affairs he held a conversation with some relatively liberal-minded intellectuals who argued very strongly that the religious sphere could not be one of absolute freedom and that some degree of legal regulation and even restriction was essential.

In both of these countries the discussion of new regulatory frameworks for religious institutions revolved around issues of stability, vulnerability, unfair competition, a desire for order, and questions of national identity. In Kyrgyzstan the argument suggested that here was a fragile society that had only recently achieved independence, and which had since experienced a veritable onslaught by religious and missionary organisations of all sorts. On the one hand there were Muslim purists who wanted to impose their version of the true faith on a society that, whilst retaining a strong cultural attachment to religion, had also been deeply affected by decades of Soviet secularisation – and my colleagues cited above were all urban, educated women, suspicious of Islamicist motives. Against such groups were ranged a wide variety of Protestant, neo-Protestant and new religious movements, some with roots in Kyrgyz society and some attracted by the relatively free religious market created in the early 1990s. Most of these directed their evangelistic work across ethnic and religious boundaries, and it was this latter factor that led my interlocutors to argue for at least a minimal legal regulation of religious activities in order to preserve some degree of internal stability.

Similarly, in Russia – and indeed in other former Soviet bloc countries – the debates that emerged in the mid-1990s centred on the vulnerability

of a population disoriented by the collapse of the USSR and subsequent economic decline. Here the argument emphasised that the traditional religious institutions had been weakened institutionally, financially and psychologically by decades of atheist repression and this had left them unable to compete with the wealthy religious missions that were flooding into Russia. At the same time those appealing for legal protection of the 'traditional churches' could draw on a widespread longing for order in a society facing the seemingly anarchic reality of 'democracy' and, so they hoped, on a popular rejection of alien forms of religion or externally determined models of religion–state relations. For that reason much of the argument in Russia had a nationalistic, sometimes chauvinistic, flavour that just occasionally led church leaders into some rather unholy political alliances.

Both Russia and Kyrgyzstan were apparently in a process of transition, from communist authoritarianism or 'post-totalitarianism'¹ to some new form of political rule. Each of them proclaimed their commitment to 'democratisation', and each maintained some of the forms of liberal democracy. In neither case had presidential and parliamentary elections been fully 'free and fair', though in Russia they had provided for some parliamentary 'circulation of elites'. In political science terms both had undergone a process of 'liberalisation' – though Kyrgyzstan's 'liberality' had declined considerably by the end of 2002 and the country could not be described as 'democratic' in any meaningful sense – but neither were 'consolidated democracies'.² Equally important for the future of democracy, in these and many post-Soviet societies the development of an appropriate 'democratic mentality' has proved hard to achieve. Survey data suggested that for many people strong leadership and the restoration of 'order' were more important than democratic niceties, and that society and elites had yet to imbibe the values of tolerance and acceptance of diversity that tend to underpin mature democratic states. For example, in Russia surveys carried out in 1997 showed that some 82 per cent of those polled were dissatisfied with democracy, though the majority felt that at least now they could say what they thought.³ Other survey data pointed to low levels of acceptance when it came to social diversity, with surveys in the late 1980s and early 1990s showing that up to one-third of Russians would have liked to 'eliminate' homosexuals – as against *only* 5 per cent who wanted to do the same to members of 'sects' – and that many remained wary of some of the excesses of democracy.⁴ Similar studies carried out in Bulgaria in the late 1990s demonstrated that over half of the population had hostile attitudes towards religious and ethnic minorities.⁵

For these reasons debates over religious pluralism and diversity are worth studying because of what they tell us about the wider problem of creating a democratic mentality in transitional societies. At the same time they allow us to engage with debates over the respective role of elites and masses in the process of political change. Does democratisation simply require that the elites accept democratic values and act in some rough accord with these – for example, in debate with opponents is a level of civility maintained, are electoral defeats accepted, and do politicians promote the acceptance of social and political diversity? Or is more needed, and do the mass of the population need to accept, and act in accordance with, democratic values before it is possible to speak of a secure and consolidated democratic order? In general, most sources appear to view it as desirable that both questions be answered affirmatively, but suggest that in the short term democratisation is unlikely to be successful or stable without an elite commitment to ‘the rules of the game’.⁶ If such is the case then do religious elites have a contribution to make, whether in encouraging other elites to ‘play fair’ or in pursuing their own agendas according to democratic rules? And what messages might it send to the wider public if respected national religious institutions seek to acquire institutional privilege or limit the rights of competitors? How then can they be taken seriously when they call on the military, political parties or important individuals to respect democratic norms? Yet equally, it might be suggested that successful democratisation requires a sense of social solidarity, national unity and collective values and that therefore the promotion of an over-arching ‘spiritual’ institution or the constraining of excessive and destabilising diversity might also be beneficial.

Bearing some of these issues in mind this study seeks to put the Russian experience into a wider context by comparing the ways in which various ‘transitional’ polities have handled the questions of religion–state relations and religious diversity. To this end I have undertaken five case studies, though in the chapter on the former USSR there are included a series of briefer sketches from the experience of the non-Russian republics. The five major ‘European’⁷ cases were chosen primarily because all have a dominant religious tradition that, at least historically, has enjoyed a privileged position within the political order. Though it might have been possible to enhance comparison by examining countries with mixed religious traditions, this would have complicated further the assessment of the factors making states respond to the religious question in different ways. The cases were also deliberately chosen from both sides of the old iron curtain in order to explore the impact of regime types on religious politics.

The first two cases are Southern European countries that during the mid-1970s made the transition from a more traditional form of authoritarianism. Here democratic political orders were clearly consolidated by the mid-1980s, with the peaceful advent of socialist governments demonstrating that traditionalist forces accepted the electoral principle. Clearly the experience of these two countries was very different, for though both had the experience of a bloody civil war, Spain had been under a dictatorial regime for nearly four decades, whilst the Greek colonels had been in power for only seven. Moreover, each had different religious traditions and patterns of church–state relations, though in both there was a single traditionally dominant religious institution. In practice, however, the Spanish state, with the longer experience of dictatorship, proved able very quickly to adapt to the norms of ‘liberal democracy’ in dealing with religious diversity. By way of contrast the reconstructed Greek constitutional order maintained many of the religious privileges and restrictions left over from the pre-war Metaxas dictatorship and, during the 1990s, was still facing challenges in the European Court over its handling of religious minority issues.

The second two cases are taken from East-Central Europe, from countries that shared over forty years of communist dominance but in which the shape of this rule had varied considerably. In Poland, after a brief attempt to bring the country under closer political control, the communist regime had permitted, or been forced to accept, a looser system whereby central authority was not to be challenged but in which a limited pluralism could function. Thus, the realities of Polish life, as well as the hesitancy of the local communist elite, ensured the preservation of two institutional sectors that were probably incapable of being reconciled with communist rule: a strong private agricultural sector and the Roman Catholic Church. By way of contrast, the rulers of Bulgaria promoted an obsequiousness towards Moscow in both rhetorical and practical terms, undertaking collectivisation, purging any leader who inclined to nationalistic enthusiasms, and first terrorising, then controlling an Orthodox Church with a long tradition of submissiveness to secular power, despite its occasional role in promoting resistance to Ottoman rule during the nineteenth century.

Finally, we turn to the former USSR and in particular to the largest of its successor states, Russia. Here there was no substantial tradition of democratic rule or widespread acceptance of diversity; here the Orthodox Church had been legally dominant until 1917 and then, alongside all religious groups, faced severe if changing pressures during the seventy-four years of communist rule. Political change came as a result of

communist, some would say imperial, collapse and the break-up of the unique political order that had dominated Eastern and Central Europe during the post-war years. In Russia and most of the other successor states the period from 1988–1995 saw the emergence of a religious free market in which all sorts of groups flourished, but by the end of that period there were growing pressures for the introduction of legal controls on the activities of such groups. Whilst our focus is on Russia, this study will also include a series of briefer sketches of developments in six of the former Soviet republics – Latvia, Lithuania, Georgia, Armenia, Kyrgyzstan and Turkmenistan. Though larger conclusions will not be drawn from these short studies, they are all, with the exception of Latvia, countries with a traditionally dominant religion. Moreover, two are Islamic and distinctly non-European and as such can perhaps provide some useful if limited and not fully explored control element.

Chapters 2–4 of this book are essentially case studies, describing the experience of the three regions: Southern Europe, East-Central Europe and the former USSR. These chapters will present the legal and constitutional state of play during the 1990s and into 2002, exploring how this impacts upon the daily life of religious communities in general and minorities in particular. They will not deal with every aspect of religious life but will focus on two questions:

1. To what extent has the traditionally dominant religious community (or communities) sought or been granted some form of formal legal or constitutional ‘privilege’ or ‘recognition’?
2. To what extent has this entailed, or been accompanied by, the placing of legal or administrative restrictions on the rights of other religious communities?

The fifth chapter will raise a further question:

3. Which actors or individuals have been arguing for privilege or ‘recognition’ and/or discrimination, and what arguments have they used to justify their claims?

Underlying the whole text, and raised later in this chapter as well as in the conclusion, will be the question of:

4. What factors or explanatory models might help to explain the differential experiences under review?

In the concluding chapter we shall also ask what, if anything, does the handling of religious diversity tell us about the problem of creating a democratic order in transitional societies? However, before moving on to the cases it is worth making a few more general comments on each of these questions.

I. TO WHAT EXTENT HAVE THE TRADITIONALLY DOMINANT RELIGIOUS COMMUNITY (OR COMMUNITIES) SOUGHT OR BEEN GRANTED SOME FORM OF 'PRIVILEGE' OR FORMAL 'RECOGNITION'?

Historically all of the traditionally dominant religious groups in the countries we are dealing with have enjoyed a position of *de facto* and *de jure* privilege, whether spelt out in formal constitutional and legal texts, guaranteed by Concordats with the Vatican, or developed over many years of dealing with the nation-state. In some cases this was maintained throughout the period of authoritarian rule and even in the communist period dominant churches, after a period of extreme persecution, were often granted a tightly controlled status of first amongst equals. Less clear, however, was the appropriateness of 'privileging' particular religious organisations in a liberal democratic setting where constitutional orders normally promise equality regardless of religious faith and where in most cases only a minority of the population are practising members of a single religious community.

There are also problems here in seeking to define what constitutes privilege or, perhaps more accurately, what constitutes illegitimate advantage, because in principle it might be possible to have an established religion that is not thereby a privileged one. Nonetheless, insofar as the very act of separating out one religious community from others makes distinctions it could be construed as disadvantageous for those not so selected. And where, as in the English case, this gives certain ecclesiastical leaders the right to sit in the upper house of the legislature and offers special protection in the form of a blasphemy law, it could be argued that establishment clearly does entail privilege. The issue becomes still more problematic in relation to issues such as religious-based schools, the granting to the dominant religion of special prerogatives in the area of family law and sexual morality, the provision of military or prison chaplains, and the granting of state subsidies to particular religious communities. Here it might be argued that privilege is entailed, though it may be possible to undermine this by granting all religious groups the same rights. Yet even this Solomonic solution runs into difficulties stemming from the well-known legal problem of deciding what constitutes a religion entitled to rights as such in law.

In most of the situations covered in this book the dominant religious communities deny that it is privilege they seek, and prefer to speak of the need for 'recognition' of a historical and social reality. They are the body that has helped to shape and defend national interests over many centuries; they are the community with which a large part of the nation

has some sense of identification; they are a social reality that cannot and should not be ignored. In such circumstance, to impose an American style 'wall of separation' and effectively remove religion from the public square might actually serve to privilege a secularist world-view rather than institute religious neutrality. There is also some resentment at the notion that when they campaign on specific issues the churches are in some sense acting improperly, for why should churches not have the same rights to lobby and persuade as other public institutions? Indeed, but problems do arise when religious institutions try to ring-fence certain policy areas. As Fleet and Smith observe in their study of Latin America, if religious institutions claim 'reserved domains' in certain areas, why should other communities such as business or the military not do likewise, and if this is the case what happens to democratic accountability?⁸

A further problem arises in the use of the term 'establishment' for in none of our five major cases is the dominant religion formally referred to as a state church, though the Greek constitution's reference to the 'prevailing' religion and the de facto operation of its constitutional and legal status effectively amounts to establishment. One might also need to make further distinctions between the act of establishment, which tells us little in itself about the impact of 'recognition' on other religious communities or on the wider society, and the wider regulatory regime affecting religious communities. Some scholars have preferred to speak in terms of the market, eschewing the word establishment and focusing on the degree to which religious institutions enjoy a state-protected monopoly position. Chaves and Cann, for example, have developed a six-point scale to indicate the degree of religious monopoly, a scale that included amongst other things asking whether there was an officially designated state church, recognition of some denominations but not others, state subsidies and so forth.⁹ The problem with such formal indices – which also assume that the higher the level of religious monopoly the lower the level of religious liberty – is that they struggle to cope with cultural context. For example, the formal establishment of the Lutheran Church in Denmark has a far less restrictive impact upon religious minorities than does the de facto establishment of the Orthodox Church in Greece, accompanied as it is by a series of what have been described as 'para-constitutional' regulations constraining religious rights and freedoms.¹⁰ Equally, in assessing the legitimacy or otherwise of religious 'advantage' it is perhaps worth distinguishing between the regulatory regime and policy involvement by dominant religious institutions. The first is more narrow in impacting upon the religious communities themselves whereas the latter has the potential to impact upon a wider, non-participant population – as in the questions of divorce and abortion.

For all this, my concern here is with elaborating on the ways in which the five traditional dominant churches – and all the main cases refer to either Catholic or Orthodox hegemony, though there are Protestant and Islamic references in the post-Soviet sketches – have either *sought* or *been granted* some form of formal status. For that reason I make brief references to issues such as education, finance and family policy, but the primary focus is on the search for a public statement about the church's position in the new polity. And in deference to the churches' own denial that privilege is what is sought, I have opted for using the word *recognition* in describing the status they seek. For that reason the primary focus of the first substantive part of each case study focuses on statements that set apart the 'national churches', whether these be found in constitutions – which may or may not bear much relationship to reality – or in specific laws relating to religious organisations.

2. TO WHAT EXTENT HAS THIS ENTAILED, OR BEEN
ACCOMPANIED BY, THE PLACING OF LEGAL OR
ADMINISTRATIVE RESTRICTIONS ON THE RIGHTS
OF OTHER RELIGIOUS COMMUNITIES?

Clearly the privileging or establishment of one religious group does not in and of itself necessitate discrimination against others. Whilst minorities often campaign against special privileges there have been occasions where they have defended public recognition of the position of the dominant tradition. For example, in England during the Rushdie affair some Muslim and Jewish spokesmen argued against disestablishment of the Church of England on the grounds that it would effectively remove a religious voice from the public arena. Nonetheless, it could be argued that in all of the countries we focus on here some distinctions are made between religious groups, and that in at least three of the countries the public 'recognition' given to the 'traditional' confessions has been accompanied by discriminatory legislation or practice directed against minority confessions.

Exploring this question in the context of the case studies we start from the assumption that there are certain international legal norms that define the type of rights that should be available to religious communities, regardless of their relationship to the history and culture of the nation. These norms are set out in the International Covenant on Civil and Political Rights, the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, and in the European Convention for the Protection of Human Rights and International Freedoms. Of course the production of these documents

was a political process and many of the basic understandings enshrined in their texts resulted from compromises over meaning. In particular, problems have emerged over issues such as the right to change one's religion, proselytism, religious education, conscientious objection, and the right of states to advantage or promote particular religious visions. Underlying these discussions are more fundamental debates over whether it is possible to find universal regulatory norms applicable to every cultural context. Some of these arguments surface in a number of the countries with which we are concerned, especially in those whose religious roots are Orthodox. Given that all of these countries share to some degree a common European heritage, and all, with the partial exception of Greece, have signed up to these international agreements it is deemed appropriate here to explore the question of religious rights in terms of these commonly accepted commitments, and for reasons of space to eschew a wider discussion of what is meant by the concept of religious freedom. For our purposes the case studies will focus on the extent to which states produce legislation that restricts the rights of religious minorities to practise their belief, open places of worship, carry out their rituals and worship without hindrance or harassment, educate their children according to their beliefs, not to be excluded from employment on the grounds of their faith commitments, and to be able to find alternative forms of service in countries where military conscription is the norm.

Whilst these international norms are used to define what is unacceptable in a state's regulatory regime vis-à-vis religious communities, it is worth asking whether religious liberty should always be seen as an absolute value and whether it can in some sense be 'trumped' by other needs of the political community. In particular, during times of transition when populations are disoriented, vulnerable and traumatised, might there not be a need to create a sense of solidarity, belonging and shared values? In such circumstances a religious institution that has played a key role in shaping the national past might be particularly suited to providing meaning for a society that has seen all of its old certainties collapse. Equally, can the restriction of religious liberty and diversity be justified in terms of the need to preserve social and political stability in fragile societies undergoing processes of rapid political change?¹¹ Or might it be possible, following the European Court judgement in the Kokkinakis case (see chapter 2), for distinctions to be made between an appropriate and inappropriate use of religious liberty rights? If so, who decides what is acceptable – the European Court unhelpfully failed to do so in speaking of proper and improper forms of proselytism – and to what extent should state authorities have the right to intervene in the religious sphere? And

even if a case could be made for the curbing of some types of religious activity, does this require special laws on religion, along the lines of those emerging in the former Soviet bloc, or can excesses be adequately dealt with by civil and criminal law?

3. WHICH ACTORS OR INDIVIDUALS HAVE BEEN ARGUING FOR 'RECOGNITION' AND/OR DISCRIMINATION, AND WHAT ARGUMENTS HAVE THEY USED TO JUSTIFY THEIR CLAIMS?

The common assumption is that the claims for 'recognition' or restriction of minority rights come primarily from the traditionally dominant religious community, and it is often the case that such churches do actively seek to protect their own institutional interests, especially in times of political and social change when their position and public role may be under question. At the same time a broad array of other institutional actors or individuals within the social, political and cultural elite are often to be found making the case for 'protection'. On the part of the state this may involve government ministers using the issue for electoral or other political ends, state security agencies seeking to find new 'threats' in a post-authoritarian context, or other bureaucratic agencies – in some post-communist countries, former religious affairs administrations – finding it hard to throw off the old disposition to control any manifestation of independent social activity. Nationalist politicians are often at the forefront of campaigns for privilege or restriction, arguing in terms of the need for national and religious unity in the face of internal and external threats, or arguing against externally imposed models of religion–state relations that are inappropriate to their country's particular cultural context or traditions. Liberal intellectuals may also express the fear, sometimes in paternalistic fashion, that the current fragility of the transition period leaves the masses vulnerable to religious movements of dubious provenance and doubtful taste. Local officials, pressure groups and the media may play a key role in waging campaigns against particular groups, with the press producing sensationalist accounts that generalise about all religious minorities on the basis of the actions of the most radical. This may in turn play on, as well as create, a public anxiety about the 'invasion of the sects' that is rooted in the wider uncertainties created by the new social and political context. Finally, international factors may be at work, as in the former USSR where many of the newly independent states followed the Russian Federation in modelling new laws or proposals on religious issues, or as in Greece where the primary stimulus for a change in the church–state relationship comes from external rather than internal pressures.

The arguments that are made here tend to fall into four broad ‘families’:

- The first focuses on the need to recognise the ‘sociological reality’ in countries where the majority church is part of the very fabric of society and therefore deserving of formal recognition. This is the religious institution that has steered the nation through centuries of history and to which the majority of the population has some form of nominal allegiance. In such circumstances constitutional or legal status does not represent any privileging of the institution but a simple acceptance of a ‘social fact’. Such arguments are not unproblematic, with religious institutions tending to utilise majoritarianism in a selective fashion and the national church argument raising questions about the position of those citizens who do not adhere to its institutional or doctrinal forms.
- Secondly, there is what might be called the moral guardianship approach that emphasises the role of the dominant church in protecting moral values and defends the need to strengthen this body in order to prevent a disoriented population from falling into the hands of ‘destructive sects’. Closely allied to this is the notion of unfair competition, with the suggestion that in the new situation there is not a level playing field and that privileging the weakened majority community will simply provide them with proper support in their struggle against well-funded foreign missionaries.
- Thirdly, there are appeals rooted in a concern for order and stability, partly stimulated by a reaction to the seeming anarchy of democracy and partly by fears, real and imagined, about the likely impact of untrammelled religious diversity on the security of the new political and social order. Such arguments are sometimes closely linked with suggestions that what is needed is not so much political control, but a proper regulatory framework within which all religious organisations can operate under the broad umbrella of the law.
- Finally, there are more explicitly nationalist arguments, sometimes couched in negative terms and utilising chauvinistic anti-foreigner rhetoric, and sometimes in more positive ways that stress the uniqueness of the country concerned and the need to develop one’s own model of religion–state relations. In many of the newly democratising countries this is the most potent line of argument, and it has emerged especially powerfully in Greece and Russia where processes of Westernisation and the external promotion of individualistic norms of conduct have aroused particular resentment amongst some sections of the population and political elite. Here we find arguments for privilege or restriction most clearly expressed in terms of the ‘nation in danger.’¹²

In each of our cases the actors and the emphasis differ but in most of them, with the partial exception of Spain, some version of all four have

been voiced. Clearly in many cases the motivations are not specifically religious, and have more to do with visions of the country's future and with broader political objectives. Even when voiced by churchmen it is often difficult to distinguish in any meaningful way between ideological claims and the pursuit of institutional or power interests. In rational choice terms, whatever the doctrinal objectives of religious institutions, they also as institutions have 'revenue maximisation' goals – increasing adherents, institutions and income – that require them to operate in the political as well as the spiritual realm, and therefore to make political alliances with forces whose motives are not always clear.¹³ In such cases religious leaders have to adapt their own rhetoric so as to combine the voicing of genuine religious concerns with the need to acquire support within the broader political society.

4. IN WHAT WAYS MIGHT ONE EXPLAIN THE DIFFERENTIAL EXPERIENCES UNDER REVIEW?

Finding an all-embracing explanation for the ways in which transitional societies handle the issue of religious diversity is virtually impossible, but we can point to various types of explanation that might shed some light on developments in transitional societies. These might focus on prior regime type and the nature of the transition, on the impact of confessional difference, on socio-economic factors, or on the role of nationalism in promoting particular visions of how the new political community should be shaped and who belongs within it.

Regime type and the nature of transition

One might expect the nature of the authoritarian system to have some impact, given that in three of our major cases the old regime was explicitly committed to the *elimination* of religion whilst the two Southern European dictatorships saw one of their tasks as the *rescue* of Christian civilisation. Alfred Stepan and Juan Linz have suggested that the tasks of democratic consolidation might be easier in post-authoritarian states such as Spain – where there existed a developed civil society, a reasonably strong legal culture, a well-organised state bureaucracy and institutionalised economic society – than in a post-communist society where many of these features were absent.¹⁴ In relation to our study one might also predict the transition from state control of religion to a religious free market to be a more problematic process in communist countries where extensive bureaucracies had dealt with religious issues and the state's predisposition was interventionist. Though the actual position varied from country to

country – with the Polish state permitting, however reluctantly at times, a considerable degree of space for religious life, whilst the Russian and Bulgarian regimes promoted a tightly controlled Orthodox Church as a quasi-national institution – all of these regimes explicitly rejected religious participation in the public sphere. In consequence, a reasonable expectation would be that finding new models of church–state relations and evolving responses to the question of religious pluralism would be more problematic within post-communist than post-authoritarian polities, and in turn more difficult in Russia and Bulgaria than in Poland.

The nature of the transition process and the distance that the new polity has travelled on the road to a democratic order might also be of significance. Broadly speaking, we would expect that in those countries where democratisation has resulted from a process of negotiation and compromise, the resolution of religion–state issues might be more consensual in nature than elsewhere. Thus, in the cases of Spain and Poland where democratisation came about as a result of negotiation one might find key actors inclined to a search for policy compromises rather than attempts to achieve all of their desired objectives. In our other cases the nature of the transition was essentially ‘accidental’: in Greece a consequence of a botched military operation by a disliked regime, in Bulgaria a product of the knock-on effect from other East European changes, and in Russia and the successor states a consequence of imperial collapse. Unlike the first two cases, the churches here made little contribution to democratisation and thus lacked moral authority to participate in political transformation. Here the absence of any experience in facilitating the transition process in general meant that they lacked first-hand acquaintance with the negotiation and compromise that are an essential part of the policy process when mature democracies tackle policy issues, including those affecting religion.

In addition, the cultural context in the countries undergoing transition may be important to determining outcomes in the religious sphere. Most studies of societies undergoing transition in a liberal or democratic direction suggest that in the long term the evolution of a democratic mind-set or democratic political culture is important. In the first instance this may simply require that elites agree to play by the new ‘rules of the game’ and that they accept the legitimacy of the emerging system, but in the longer term it is argued that stability requires some form of mass acceptance of the political system and, if the democracy is to be truly ‘liberal’, the emergence of mass values accepting of difference and tolerant of alternative viewpoints. Such arguments usually make use of the concept of political culture which is based upon the assumption that ‘every political system is embedded in a particular pattern of orientations to political action’,

encompassing beliefs, values and sentiments about the most appropriate way to manage political life.¹⁵ Critics have charged that the concept is too deterministic and pessimistic insofar as it appears to suggest that without elite or mass acceptance of an appropriate political culture, change – especially in a democratic direction – is unlikely in certain countries. Yet despite new approaches to political research many scholars remain committed to the view that cultural context does matter and that at the very least the peculiar traditions of a country help to shape the way in which politicians and the wider population respond to specific political issues.¹⁶ This very point is made by Monsma and Soper in their study of church and state in established democracies. Here they note that it is primarily such factors that serve to make a German-style church tax or English-style establishment impossible in the American context, even though neither could today be described as seriously encroaching on the population's religious liberty in their respective countries.¹⁷

It is difficult to see how political culture would impact upon the 'recognition' issue, though clearly in countries such as Greece, the constitutional and legal privileging of the Orthodox Church does not greatly disturb the majority of the population who view the Church as part of the nation's institutional structure. Where one might expect societal values and attitudes to have a greater impact is in relation to minority issues. Here the rather crude expectation would be that laws restricting religious liberty or minority rights were more likely to appear, and be more acceptable, in those countries where the levels of tolerance of 'otherness' or acceptance of social pluralism are low, and where authoritarian solutions to political problems are more readily accepted. Without pre-judging this issue we would expect laws restricting religious minority rights to be more acceptable in those countries such as Russia and Bulgaria where public opinion surveys indicate a continuing suspicion of diversity, especially amongst the generations brought up under the old order.

Confessional difference

A country's political culture is shaped in part by its religious traditions and, even though religious belief and adherence may have declined in the modern era, the legacy of past religious structures and practices may continue to affect the way in which social and political systems operate. Such linkages are, however, extremely difficult to document, for though social scientists can investigate aspects of religious influence such as the link between regular church attendance and voting behaviour – though even here causation is difficult to assess – the longer-term impact of religious traditions remains harder to gauge. Various writers have seen connections

between religious traditions and socio-political outcomes, most notably Max Weber in his studies of the impact of the 'Protestant ethic' on the development of capitalism. This is not the place to explore his particular thesis but it is worth pointing out that Weber did not posit a deterministic set of relationships that would emerge in every circumstance, but simply made connections between religious and economic change at a particular time in history.

Of more relevance to those interested in democratisation processes of the last thirty years are the arguments put forward by Samuel Huntington regarding the impact of religious tradition on the 'third wave'. Noting a strong correlation between Western Christianity and democratisation and the fact that many of the third wave countries are Roman Catholic, Huntington suggested that many recent democratisation processes had been made possible in part by developments within that Church. In particular the impact of Vatican II and the increasing activism of the Church as a transnational actor has led national churches that hitherto passively accepted authoritarian polities to adopt a more critical, pro-democratic orientation. This in turn reinforced other challenges to these regimes and helped to modify the traditionally paternalistic nature of Iberian and Latin American political culture.¹⁸ At the same time, Huntington suggests that the Protestant effect can still be felt in places such as Korea where growing campaigns for liberalisation paralleled substantial growth in Protestant numbers. He is not suggesting that religious factors are determining – though the later 'clash of civilisations' argument comes close to this – but that religious change has a longer-term impact upon the possibility of democratisation taking place. In particular, he argues that certain traditions (notably Protestant and Catholic) are, or historically have been, more conducive to successful democratic political change than others (Orthodoxy, Islam).¹⁹

A cursory look at the experience of the 'fourth wave' sweeping through Eastern Europe and the USSR from the late 1980s onwards might appear to offer some confirmation of this thesis. Broadly speaking the countries with Protestant and Catholic traditions have made more progress towards democratisation than countries with an Orthodox and Muslim inheritance, and we have to ask whether there is any causal relationship at work here. That is, are elements of the political tradition in these countries shaped by past religious allegiances that in turn serve to inhibit the development of democratic institutions or of pluralistic values amongst the elites and the wider population? There is also an argument that focuses on the national nature of the Orthodox churches, something that renders them weaker in relation to the state than the transnational Catholic Church. In this context the Orthodox churches have fewer resources with

which to combat the authoritarian state and have developed a mentality rooted in subservience to the state. Thus Linz and Stepan suggest that whilst Orthodox churches may well support or live with democratic governments, they are more likely to follow the lead of dominant political elites than initiate any action in this area.²⁰

If religious tradition is important, the link is essentially indirect and has little to do with current levels of religious adherence and practice. It is also not a simple question of religious determinism suggesting that certain religious traditions are simply incompatible with democracy – or more precisely, with a Western created model of ‘liberal democracy’. Huntington’s argument suggests that political cultural changes can follow amendments of religious teachings, and more recently Alfred Stepan and others have stressed the multivocal character of religious teachings in this area. Thus Islamic and Orthodox democrats can find elements within their traditions that might prove supportive of democratisation, for example in their understanding of the role of consultation in political society.²¹ Nonetheless, though no religious tradition alone must of necessity promote or inhibit the building of a pluralist society, there remain currents in some traditions that do appear problematic. Religious traditions are multivocal but at any one point in time it may be that the dominant voice in those traditions works for or against the development of a pluralistic vision of the polity and the place of religion within it. For that reason our hypothesis here would be that in Orthodox and Islamic cultural contexts there is more likely to be a *de facto* if not *de jure* privileging of traditionally dominant religious groups. Equally there is more likely to be some restriction of minority rights than in countries where Catholic and Protestant traditions prevail.

Modernisation, secularisation and religious economics

The basic assumption of secularisation theory is not that as we become more ‘modern’ religious belief will decline, but that attendant upon processes of modernisation will be a decline in the public role of religion. In Bruce’s words the social significance of religion diminishes in response to ‘the fragmentation of societies and of social life, the disappearance of the community and the growth of massive bureaucracies (national and international), and increasing rationalization’.²² Despite occasional periods of what Casanova calls the ‘deprivatisation’ of religion and others speak of as religious ‘resurgence’, proponents of the secularisation thesis argue that it continues to hold – at least in the industrialised world – except in societies undergoing rapid change or where religion can provide a ‘cultural defence’ against the onslaughts of modernity.²³ One by-product

of secularisation and modernisation is the growth of religious liberty and the tolerance of different forms of religious practice. Some theorists suggested that religion needed to occupy a monopoly position, to erect what Berger called a 'sacred canopy' under which all worshipped and accepted a specific vision of truth.²⁴ Once this was fractured and people began to branch off into a variety of religious communities, religious claims became increasingly a matter of opinion and religious influence declined. Religious competition weakened the public role of religious organisation by undermining any concept of absolute truth that could be accepted by all. In consequence religious liberty emerged, not as a product of choice but from necessity, from the very processes of modernisation that in most countries undermined universal acceptance of a monopolistic religious vision. One of the consequences of this was a gradual trend towards the separation of church and state, the assumption being that true religious liberty was impossible where there was a state church – though the differential treatment of religious minorities in countries such as Greece and Denmark suggests that in the present era this assumption is too simplistic. What this might lead one to expect in the context of our study is that as one moves politically 'eastwards' towards the less developed post-communist world the degree of religious liberty would decline and the traditionally dominant religious institutions would seek to regain, preserve or create a monopoly position. In relation to our five major cases we might then expect religious liberty to be most advanced in Spain, followed by Greece, Poland, Bulgaria and Russia, whilst it would be in the latter countries that traditional churches might be most likely to lay claim to legal and institutional 'recognition'. The picture is complicated, however, by the fact that Bulgaria and Russia, though less 'modern' than the Western states, had experienced a peculiar brand of state-sponsored secularisation that had not been without impact upon public attitudes towards religion.

Not all those focusing on socio-economic aspects of religious developments are convinced by these arguments. Rational choice theorists, for example, tend to argue that religious revitalisation and decline are more cyclical in nature and shaped by changes in the levels of religious competition and by the regulatory framework within which religious groups operate. Here the basic assumptions are that (a) religious institutions should be treated much as firms operating in a market and seeking ways of maximising their 'revenue' (i.e. membership and financial resources); (b) where there is a religious monopoly participation and enthusiasm will decline in the protected church; and (c) where there is a relatively unregulated free market religious groups will become more 'efficient' and more will prosper because of the need to find ways of getting one

up on competitors.²⁵ A further consequence of all this would be that in situations where there is a high level of regulation the level of religious competition is likely to be low and conversely, as the levels of monopoly and restrictive legislation decline religious competition will increase.

Anthony Gill has offered some thoughts on how the approach might be used to explain the origins of religious liberty. Starting from the assumption that variations in religiosity are determined by variations in religious liberty, he asks how one explains the evolution of differing levels of religious liberty. Rejecting the interpretations that see religious freedom as primarily a product of Enlightenment ideas or modernisation processes, he prefers to explore the issue of institutional design and the impact of government regulation on religious freedom. To this end he focuses on the question of why specific laws are developed at particular times, and suggests that we need to look at the preferences of political elites and churchmen in specific contexts. Religious liberty does not happen because of the triumph of liberal ideas, but because of specific choices made by politicians, on the basis of analysis of the costs or benefits involved in making political use of these issues, at certain points in history.²⁶

In terms of our study rational choice approaches might predict that all our traditionally dominant churches will seek to maintain their near-monopoly situation by encouraging political elites to give them legal 'recognition', 'protection' or 'advantage'. Such an approach would also suggest that politicians will support the dominant churches so long as they see some advantage in doing so, whether electoral or in terms of utilising religious norms and values to reinforce citizen compliance.²⁷ But in time pressure may grow for deregulation – whether from internal religious and political competitors, or from external agencies such as the European Union in the case of Greece – and this when enacted will in turn reduce the cost of entry for others and lead to growing religious competition. Yet as we shall see, in two of the countries where religious competition was already extensive at the point of transition and became more so later, there has been resistance to genuine deregulation. Indeed, in Russia and elsewhere, we witnessed the emergence of new and more restrictive legislation because, as we shall suggest in the next section, there were other incentives encouraging the political support of national churches.

Nationalism and civil religion

One of the theses put forward by defenders of the secularisation theory is that religious resurgence takes place primarily in contexts of cultural

defence and cultural transition.²⁸ Applied to our European cases the basic argument would be that in many cases the discussions about church–state relations and minority rights have less to do with religion, and are in fact informed primarily by wider concerns and located in a broader discourse about the nature of the new political and social order being built in these transitional societies. Writing about the debates over the 1997 Russian law on religion, John Witte quotes the Orthodox Ecumenical Patriarch who on a visit to America suggested that if anything the differences between the Western and Orthodox traditions was growing, and argued that ‘the manner in which we exist has become ontologically different’. According to the Patriarch the West had been shaped under the shadow of the Enlightenment, which provided too little room for faith and too much for freedom. Witte goes on to note how arguments of this type reverberated in Russian Orthodox Church circles during the 1990s and how debates about legislation reflected more fundamental differences of understanding about what was acceptable in the religious marketplace. For example, proselytism, seen from a Western perspective as a consequence of freedom of religion, could also be seen as an illegitimate intrusion into the life of another community and a violation of their freedom of conscience.²⁹

As we shall see, much of the public discourse over the public status of religion has made reference to the national or traditional status of the majority religion, and has been located in a much wider discussion about national identity, especially in the Orthodox countries. Though the attention of the churches has often focused on questions of their distinctive values and beliefs and their potential contribution to the tasks of transition, secular politicians have often been just as involved in raising religious questions in the context of the wider debates about national or state identity. Such arguments have had two separate but overlapping dimensions, one domestic and one international. Internally the debate has focused on the potential contribution of religious values to the stabilisation of the political order, whilst externally the emphasis has been on the need to do things ‘our way’ and on resisting the attempts of outside powers to impose ‘alien’ models on countries about which they know little. If the positive side of these debates is an attempt to preserve traditional cultures and ways of life against an encroaching, globalising world, the downside is a defensive mentality that sees threats all around.³⁰ In consequence one might expect to find churchmen and politicians seeking to privilege religious institutions seen as ‘traditional’ and restrict the rights of groups ‘threatening’ the country’s national and spiritual inheritance in those of our countries where the issue of identity remains unresolved, notably Russia, and to some extent Greece – where

European Union membership has raised anew questions about what it is to be Greek.

Those politicians involved in these debates and in shaping religious policies do so in a context shaped by legacies from the past and inherited, if modified, patterns of opinion about how such issues are best handled. In seeking to resolve questions of 'recognition' and religious pluralism key actors might refer back, consciously or otherwise, to earlier relationships between church and state. Inevitably the same conditions rarely apply and the world has often changed in ways that make a simple copying of the past impossible, though in Greece it sometimes appears that time has stood still – albeit the Orthodox Church now has a greater degree of internal independence and freedom from state control. In Russia, though here the break has been longer, one might expect politicians and churchmen to refer back to the late Tsarist period when the Orthodox Church enjoyed a degree of social and cultural pre-eminence and when its representatives enjoyed a respect and public place later destroyed by the Soviet experiment. Equally, however, a more nuanced reading of history might make religious elites wary of a re-creation of a prominence that came at the cost of an unparalleled degree of subservience to state officials.

Many of the same dilemmas seemed likely to arise in the Catholic countries, as in Poland during the early 1990s where many churchmen appeared to believe that their role in opposing the old communist system gave them the right to restore a religious guardianship over the future development of the nation. By way of contrast, the Spanish Church, keen to promote its own values and teachings, was simultaneously aware of the dangers of re-awakening the polarisation around religious issues that had contributed to the bloody nature of the civil war. In other words, whilst both secular and religious politicians could not escape the institutional legacies of the past, contemporary considerations make it unlikely that there could be any simple 'return' to historical relationships between church and state, or an overarching religious hegemony. And in the Catholic world it is not just the outside world that has moved on but also the institution, which, under the impact of Vatican II, has formally rejected claims to any enforced religious monopoly.

It may also be the case that political elites lacking confidence in their country's prospects and direction may seek to promote the dominant religious tradition as a 'civil religion' that will provide a set of 'consensual values' capable of filling a perceived ideological or spiritual vacuum. The idea of 'civil religion' has its roots in the nineteenth-century comments of Alexis de Tocqueville on the importance of religion in